

**BOISE, WEDNESDAY, FEBRUARY 22, 2023, AT 8:50 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**EAGLE ROCK TIMBER, INC., an Idaho )  
corporation, )**

**Plaintiff-Appellant, )**

**v. )**

**TETON COUNTY, IDAHO, a political )  
subdivision of the State of Idaho, )**

**Defendant-Respondent. )**

**Docket No. 49373**

Appeal from the District Court of the Seventh Judicial District of the State of Idaho, Teton County. Stevan H. Thompson, District Judge.

Holden, Kidwell, Hahn & Crapo, PLLC, Idaho Falls, for Appellant.

Hopkins Roden Crockett Hansen & Hoopes, PLLC, Idaho Falls, for Respondent.

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This appeal concerns a dispute stemming from a public works contract involving 1.6 miles of road reconstruction in Teton County. After completing the bid submission process, Eagle Rock Timber, Inc. contracted with Teton County for its reconstruction project for a stretch of Chapin Ln. in Teton County. During the course of the road reconstruction, Eagle Rock claims it discovered an unsuitable base material in an amount that was unascertainable until it was removed. Eagle Rock claimed to report the unsuitable material to an agent of Teton County. Eagle Rock further claims Teton County's agent directed Eagle Rock to remove the material and that the county would make it right. After removal, Eagle Rock attempted to recover an amount in excess of the original contract price—an increase Eagle Rock attributed to the removal of the unsuitable material. Teton County denied Eagle Rock's request stating it did not authorize any changes in the contract. Teton County cited express provisions of the contract that required any change in contract price or modification of the contract to have prior written authorization. When the parties could not resolve this dispute over the amount owed, Eagle Rock brought suit.

Teton County moved for summary judgment twice. In ruling on the first motion, the district court denied the motion concluding there was a genuine issue of material fact as to whether Teton County, through its agent, waived the writing requirements under the express terms of the contract and whether authorization was given to Eagle Rock for the removal that would implicate an equitable remedy. In the second motion, Teton County argued that through the language of the contract its agent did not have actual or apparent authority to adjust the price of the contract. The district court agreed, ruling since the agent did not have actual or apparent authority to bind Teton County, the claims asserted by Eagle Rock failed. Accordingly, the district court granted summary judgment in favor of Teton County.

Eagle Rock appeals arguing that Eagle Rock's agent had authority to waive the writing requirement or to modify the contract and, additionally, that Teton County ratified the agent's direction to remove the unsuitable material. Separately, Eagle Rock also asserts the district court erred by (1) dismissing its implied-in-law contract claim, (2) violating the presentation principle in basing its decision on evidence and arguments not presented by the parties, (3) failing to rule on the motion to amend and in later denying the motion to amend, and (4) in awarding costs and fees to Teton County below.